

DRAFT PERMIT FOR THE STORAGE OF HAZARDOUS WASTE

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE, MS AWT-107
SEATTLE, WASHINGTON 98101
(206) 553-1847

This Permit is issued in accordance with the applicable provisions of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the regulations promulgated there under in Title 40 of the Code of Federal Regulations (CFR).

ISSUED TO (Permittee):

United States Department of Defense
Department of the Navy

For the Bremerton Naval Complex located at

1400 Farrugut Avenue
Bremerton, WA 98314-5001

EPA/Ecology ID No. WA2 17002 3418

This Permit is effective as of July 15, 2006, and shall remain in effect until July 15, 2016, unless revoked and reissued (40 CFR §270.41), terminated (40 CFR §270.43), or continued in accordance with 40 CFR §270.51 and permit condition I.G herein.

ISSUED BY: THE U.S. Environmental Protection Agency, Region 10

Richard Albright, Director
Office of Air, Waste and Toxics
U.S. Environmental Protection Agency,
Region 10

Date

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INTRODUCTION

ISSUED TO (Permittee):

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Pursuant to the applicable provisions of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the regulations promulgated there under by the U.S. Environmental Protection Agency (EPA) (codified in Title 40 of the Code of Federal Regulations [CFR]), a permit is hereby issued. This Permit relates to hazardous waste management activities at the Bremerton Naval Complex (BNC) subject to the requirements of 40 CFR Parts 260-264, Part 268 and Part 270 for which the Department has not yet received final authorization. Specifically, this Permit covers the waste minimization requirements of 40 CFR §264.73(b)(9) and supporting standard and general permit conditions.

The RCRA permit for the BNC consists of two components – the Dangerous Waste portion issued by the Department pursuant to WAC 173-303-806, and this HSWA portion issued by the Agency pursuant to 40 CFR Part 270. Use of the term “Permit” within the HSWA Permit shall refer to the HSWA Permit.

The Permittee shall comply with all terms and conditions set forth in this Permit. This Permit consists of the conditions contained herein, reflecting all applicable federal regulations in 40 CFR Parts 260 through 266, Part 268 and Part 270 in effect on the date of final administrative action on this Permit for which the Department has not yet received final authorization. The Permittee shall also comply with any self implementing statutory provisions and implementing regulations which, according to the requirements of HSWA, are automatically applicable to the Permittee's hazardous waste management activities, notwithstanding the conditions of this Permit.

Compliance with the terms of this Permit does not constitute a defense to any action brought under Sections 3007, 3008, 3013, and 7003 of RCRA (42 U.S.C. §§ 6927, 6928, 6934 and 6973), Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) [42 U.S.C. §9606(a)], as amended by the Superfund Amendments and Reauthorization Act of 1986, or any other federal or state law governing protection of public health or the environment.

The Permittee must maintain any documents at the facility referenced by the Agency in any condition of this Permit, even though such referenced documents may not be physically contained in the Permit.

This Permit is based upon the administrative record, as required by 40 CFR §124.9. The Permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time, shall be grounds for the termination or modification of this Permit and/or initiation of an enforcement action, including criminal proceedings. The Permittee shall inform the Administrator of any deviation from permit conditions or changes in the information on which the application is based which would affect the Permittee's ability to comply, or actual compliance, with the applicable regulations or permit conditions or which alters any condition of this Permit in any way. The Permittee shall also promptly submit such facts or corrected information to the appropriate persons.

DEFINITIONS

For purposes of this Permit, the following definitions shall apply:

- a. All definitions contained in 40 CFR §§124.2, 260.10, 270.2, and Part 264 are hereby incorporated, in their entirety, by reference into this Permit, except that any of the definitions used below shall supersede any definition of the same term given in 40 CFR §§124.2, 260.10, 270.2, and Part 264. Where terms are not defined in the regulations or the Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.
- b. **"Administrator"** means the Administrator of the U.S Environmental Protection Agency (Agency) or a designated representative. The Director of the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency Region 10, (with the address as specified on page one of this Permit), is a duly authorized and designated representative of the Administrator for purposes of this Permit.
- c. The term **"Agency"** shall mean the U.S. Environmental Protection Agency, Region 10 (with the address as specified on page one of this Permit).
- e. The term **"Department"** shall mean the Washington State Department of Ecology.
- f. The term "Director" shall mean the Program Manager for the Washington State Department of Ecology, Nuclear Waste Program.
- g. The term **"Facility"** shall mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them). For purposes of this Permit, the "Facility" shall be the Bremerton Naval Complex, as depicted in Figures 1 and 2 of Attachment 1 according to Permit Condition II.C.
- h. The term **"Permit"** shall mean the Permit issued by the U.S. Environmental Protection Agency, Region 10, pursuant to 42 U.S.C. §6901 et seq. and 40 CFR Parts 124 and 270.
- i. In cases where the Permittee is required pursuant to this Permit to comply with a specific provision of 40 CFR Part 264, and that provision refers to **"Regional Administrator"** or **"Director,"** the term **"Regional Administrator"** or **"Director"** shall be interpreted to mean the Director, Office of Air, Waste and Toxics, EPA Region 10.
- j. **"State"** means the State of Washington.

PART I - STANDARD CONDITIONS

I.A. EFFECT OF PERMIT

Subject to 40 CFR §270.4, compliance with this Permit constitutes compliance, for the purposes of enforcement, with certain portions of Subtitle C of RCRA. This Permit covers those federal HSWA requirements that apply to the Permittee and that are not yet part of the Department's authorized program as of the effective date of this Permit, except for those requirements that become effective by statute. Specifically, this Permit covers the waste minimization requirements of 40 CFR §264.73(b)(9) and supporting standard and general permit conditions. [40 CFR 270.4]

I.B. PERSONAL AND PROPERTY RIGHTS

- I.B.1. Issuance of this Permit does not convey any property rights of any sort or any exclusive privilege. [40 CFR §270.4(b)]
- I.B.2. Issuance of this Permit does not authorize any injury to persons or property, or invasion of other private rights, or any infringement of State or local laws or regulations. [40 CFR §270.30(g) and §270.4(c)]

I.C. PERMIT ACTIONS

- I.C.1. This Permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR §§270.41, 270.42, and 270.43. [40 CFR §270.30(f)]
- I.C.2. The filing of a request by the permittee for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. [40 CFR §270.30(f)]
- I.C.3. Permit modification at the request of the Permittee shall comply with procedures and other requirements of 40 CFR §270.42. [40 CFR §270.41]

I.D. SEVERABILITY

- I.D.1. The conditions of this Permit are severable; and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. Invalidation of any federal statutory or regulatory provision which forms the basis for any condition of this Permit does not affect the validity of any other federal statutory or regulatory basis for said condition. [40 CFR §124.16(a)(2)]
- I.D.2. In the event that a condition of this Permit is stayed for any reason, the Permittee shall

comply with the related applicable and relevant interim status standards in 40 CFR Part 265 for that stayed condition, if any, until final resolution of the stayed condition, unless compliance with the related applicable and relevant interim status standards would be technologically incompatible with compliance with other conditions of this Permit which have not been stayed. [40 CFR §124.16(c)(2)]

I.E. DUTY TO COMPLY

- I.E.1. The Permittee shall comply with all conditions of this Permit, except that the Permittee need not comply with the conditions of this Permit to the extent and for the duration such noncompliance is authorized in an emergency permit (See 40 CFR §270.61). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the appropriate Act and is grounds for enforcement action; permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application. [40 CFR §270.30(a)]
- I.E.2 Misrepresentation of any relevant facts at any time is grounds for termination of this Permit or for denying a permit renewal application. [40 CFR §270.43]

I.F. DUTY TO REAPPLY

- I.F.1. If the Permittee wishes to continue an activity regulated by this Permit or the dangerous waste permit issued by the Department after the expiration date, or if the Permittee is required by the Department pursuant to WAC 173-303 to conduct or continue post-closure care or corrective action after this permit's expiration date, the Permittee shall apply for and obtain a new permit according to the provisions of 40 CFR §270.10(h). Such application shall comply with 40 CFR §270.11 and 40 CFR §12, and shall comply with applicable requirements of and include all applicable information in 40 CFR Sections §§270.11 through 270.21. [40 CFR §270.30(b) and 40 CFR §270.10(h)]
- I.F.2. The Permittee shall keep records of all data used to complete permit applications and any supplemental information submitted under §§270.10(d), 270.13, 270.14 through 270.21 for a period of at least three (3) years from the date the application is signed. [40 CFR §270.10(i)]
- I.F.3. The Permittee may be required by the Director to submit information in order to establish permit conditions under §§270.32(b)(2). [40 CFR §270.10(k)]

I.G. CONTINUATION OF EXPIRING PERMIT

Conditions of this Permit after expiration continue in force under Title V of the U.S. Code, Section 558(c) until the effective date of a new permit or permit denial if either:

The Permittee has submitted a timely application under 40 C.F.R. §270.14 and the applicable sections in 40 C.F.R. §§270.15 through 270.29, which is a complete

(under 40 C.F.R. §270.10(c)) application for a new permit and the Regional Administrator, through no fault of the permittee, does not issue a new permit with an effective date under 40 C.F.R. §124.15 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

Or

The Department requires the Permittee to conduct or continue post-closure care or corrective action pursuant to WAC 173-303. [40 CFR §270.51(a)]

I.H. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit. [40 CFR §270.30(c)]

I.I. DUTY TO MITIGATE

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment resulting from the non-compliance, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. [40 CFR §270.30(d)]

I.J. PROPER OPERATION AND MAINTENANCE

The Permittee shall at all times operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities, or similar systems only when necessary to achieve and maintain compliance with the conditions of this Permit. [40 CFR §270.30(e)]

I.K. DUTY TO PROVIDE INFORMATION

I.K.1 The Permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Director, upon request, copies of records required to be kept by this Permit. [40 CFR §270.30(h) and §264.74(a)]

I.K.2 The Permittee shall provide one copy of plans, reports, notifications or other

submissions to the Director required by this Permit, sent by certified mail, package express, or hand delivered to the following address: [40 CFR §270.30(l)]

Director, Office of Air, Waste and Toxics
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, AWT-107
Seattle, WA 98101

I.L. INSPECTION AND ENTRY

- I.L.1. The Permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
1. Enter at reasonable times upon the Permittee's premises, where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
 3. Inspect at reasonable times any portion of the facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by RCRA or state law, any substances or parameters at any location. [40 CFR §270.30(i)]

I.M. SIGNATORY REQUIREMENTS

All applications, reports or information submitted to the Director shall be signed and certified in accordance with 40 CFR § 270.11. [40 CFR §270.30(k)]

I.N. REPORTING ANTICIPATED NONCOMPLIANCE

The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [40 CFR §270.30(l)(2)]

I.O. TRANSFER OF PERMIT

This Permit is not transferable to any person, except after notice to the Director. The Director may require modification or revocation and re-issuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under RCRA (See 40 CFR §270.40). Before transferring ownership or operation of the facility during its operating life, the Permittee must notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270 in this Permit. The Permittee shall provide a copy of such notice to the Director. [40 CFR

§270.30(l)(3) and §264.12(c)]

I.P. OTHER INFORMATION

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the Permit Application, or submitted incorrect information in a Permit Application or in any report to the Director, the Permittee shall promptly submit such facts or information to the Director. [40 CFR §270.30(l)(11)]

I.Q. CONFIDENTIAL INFORMATION

The Permittee may claim as confidential any information submitted by the Permittee to the Agency in accordance with the provisions of 40 CFR §260.2 and §270.12. [40 CFR §270.12]

PART II - GENERAL FACILITY CONDITIONS

II.A. WASTE MINIMIZATION

- II.A.1. The Permittee must place a certification in the operating record on an annual basis that:
- II.A.1.a. A program is in place to reduce the volume and toxicity of hazardous waste generated to the degree determined by the Permittee to be economically practicable; and
 - II.A.1.b. Proposed methods of treatment, storage and disposal are those practicable methods currently available to the Permittee which minimize the present and future threat to human health and the environment. [40 CFR §264.73(b)(9)]
- II.A.2. During even numbered years, the Permittee must comply with the requirements of 40 CFR §264.75 and include information specified in 40 CFR §§264.75 (h) and (i) in annual reports required by WAC 173-303-390(2). [40 CFR §264.75]

II.B. RECORDKEEPING AND REPORTING

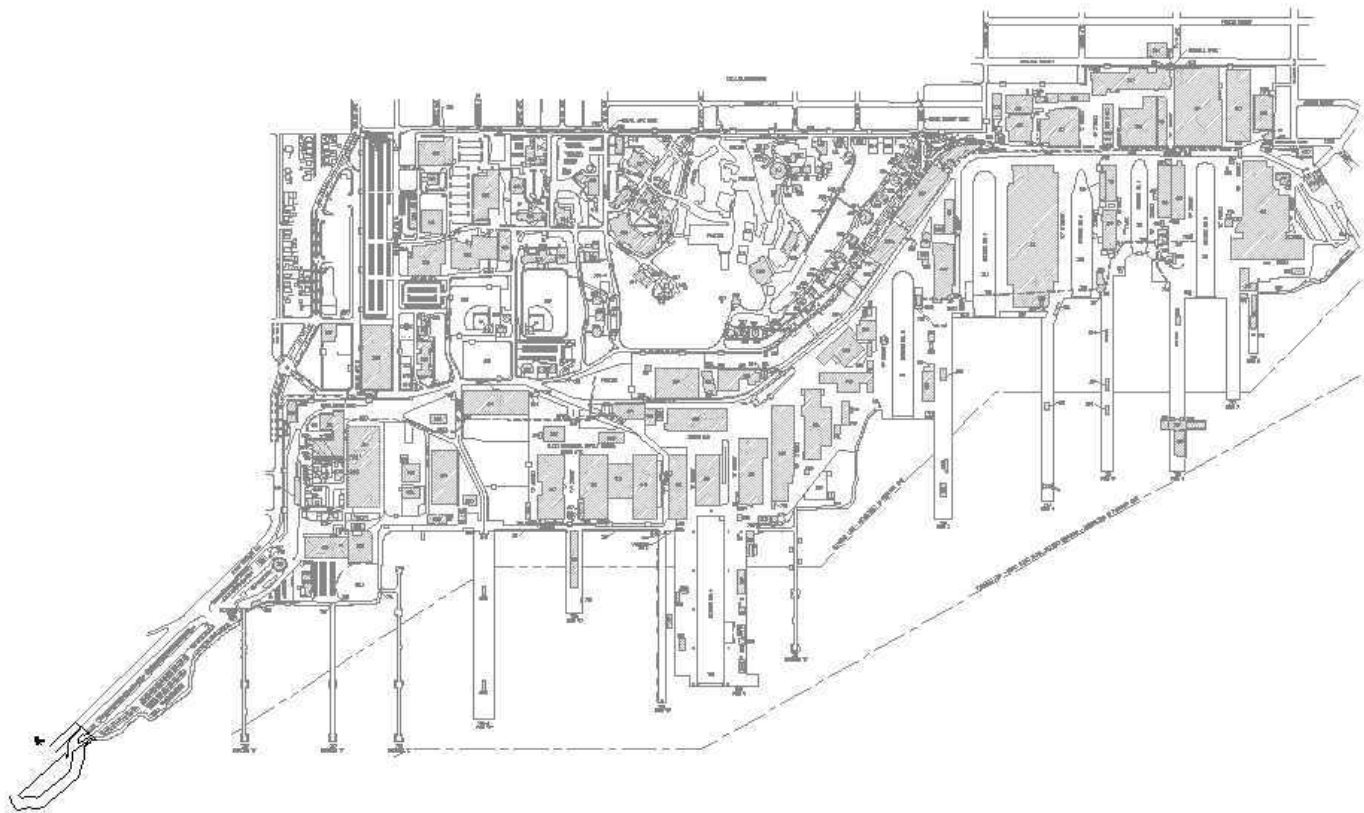
- II.B.1. The Permittee must maintain a written operating record at the Facility. The operating record shall include, but is not limited to, the information listed below:
- 1) Certifications pursuant to 40 CFR §264.73(b)(9), Annual Waste Reduction Plan;
 - 2) The Permit and all attachments;
 - 3) All approved permit modifications.
- The Permittee must record all information referenced in this Permit, as it becomes available, and maintain such information in the operating record until final closure of the facility (Certifications of Annual Waste Reduction Plans required by Condition II.B.1 shall be retained for three years after the date of certification, pursuant to 40 CFR §264.73(b)(9)) and corrective actions are complete and certified according to terms of the dangerous waste permit issued by the Department. [40 CFR §264.73]
- II.B.2. All records in the operating record, including plans, required under this part must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the Agency who is duly designated by the Administrator. [40 CFR §264.74(a)].
- II.B.3. The retention period for all records in the operating record is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Administrator. [40 CFR §264.74(b)]

II.C. DEFINITION OF FACILITY

- II.C.1 The definition of facility shall be as depicted in Attachment 1, Figure 1, as modified by the transfers of Parcels “A” and “B” depicted in Figure 2, to the City Bremerton. Figure 2 depicts those parcels of the Bremerton Naval Complex depicted in Figure 1, that have been transferred (Parcels “A” and “B”) and those parcels (Parcels “C” and “D”) being transferred to the City of Bremerton as part of the East End Transition Plan. This facility definition shall be in force prior to satisfaction of permit condition II.C.2 below.
- II.C.2 Within seven (7) days after the effective date of the transfer of Parcels “C” and “D,” depicted in Figure 2, to the City of Bremerton, the Permittee shall place in the facility operating record documentation of the property transfer recording number issued by Kitsap County. Attachment 1, Figure 1, as modified by the additional transfers of Parcels “C” and “D” depicted in Figure 2, to the City of Bremerton shall then become the definition of facility as of the effective date of the property transfer. The Permittee shall also provide a copy of this documentation to the Agency, addressed to the contact in Permit Condition 1.K.2. This submission shall include the certification statement in 40 CFR § 270.11(d)(1). Changes to the definition of facility pursuant to this permit condition shall not be subject to the permit modification requirements of 40 CFR § 270.42.

ATTACHMENT 1

Figure 1



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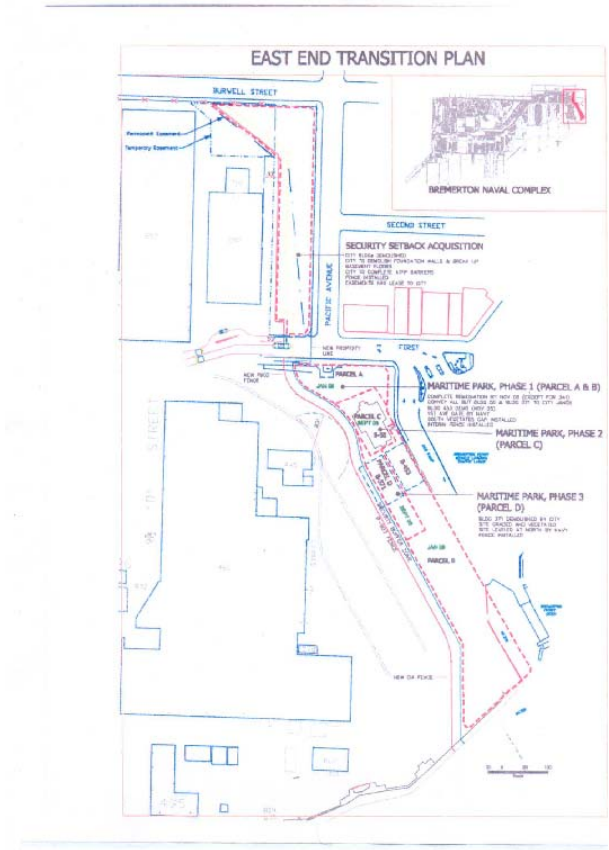


Figure 2

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